



**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**

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**DIVISION OF ENFORCEMENT**

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**VIA ECF**

Honorable Denise L. Cote  
United States District Court  
500 Pearl Street  
New York, NY 10007

**Re: Securities and Exchange Commission v. Lek Securities Corp. et al.  
Case No. 17 CV 1789 (DLC)**

Dear Judge Cote:

We write in response to the letter motion filed on this date by James Wines, counsel for Avalon FA, Ltd, Nathan Fayyer, and Sergey Pustelnik (collectively, the Defendants). In that letter, the Defendants seek leave to file a second amended Joint Pretrial Order to add Nicolas Louis to the Defendants' witness list. ECF No. 473. The Securities and Exchange Commission ("SEC") takes no position on the Defendants' request to add Mr. Louis as a witness,<sup>1</sup> but writes to correct Mr. Wines' inaccurate statement that the SEC "filed the Amended Joint Pretrial Order over the Defendants' objection." *Id.*

On September 27, 2019, the parties jointly wrote the Court seeking leave to file a First Amended Joint Pretrial Order and Exhibit List, and submitted copies of the agreed-upon documents. ECF No. 459. That joint letter, and the agreed-upon documents, were submitted with the express consent of counsel for the Defendants. On September 30, 2019, the Court entered an Order granting the request and directing the parties to file the documents by October 2, 2019. ECF No. 460.

On October 1, 2019, the SEC and defense counsel discussed additional, minor non-substantive changes to the Joint Exhibit List. In the midst of these discussions, counsel for the Defendants directed the SEC to add Mr. Louis to the amended Joint Pretrial Order as a defense witness. The SEC advised counsel for the Defendants that they took no position on the addition of Mr. Louis as a witness, but that because the Court's Order had only permitted the parties to file the First Amended Pretrial Order submitted on September 27, 2019 (which did not include

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<sup>1</sup> The parties were required to identify all trial witnesses by September 3, 2019. ECF No. 384. The defendants did not previously identify Mr. Louis as a defense witness.

Mr. Louis as a defense witness), defense counsel would need to seek leave to file a second amended Joint Pretrial Order adding a witness. In response, Mr. Wines withdrew his consent to the non-substantive changes to the Joint Exhibit List that the parties had discussed following the Court's September 30 Order. Counsel for the Defendants did not indicate that he was withdrawing his express consent to the documents jointly submitted to the Court on September 27.

In connection with this discussion, the SEC informed defense counsel on October 1 that pursuant to the Court's September 30 Order, it would be filing the First Amended Joint Pretrial Order (to which the parties had previously agreed and the filing of which the Court had authorized) on October 2, the deadline established by the Court. Consistent with that representation, on October 2, the SEC filed the versions of the First Amended Joint Pretrial Order and Exhibit List, which the parties had previously agreed upon and submitted to the Court on September 27, 2019 (*see* ECF Nos. 459-1-2). ECF No. 472.

Respectfully submitted,

/s/

Sarah S. Nilson

cc: All counsel of record (via ECF)